IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6628 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GOHIL MAHAVIRSHINH ARVINDSHINH

Versus

COMMISSIONER OF POLICE

Appearance:

1. Special Civil Application No. 6628 of 2002

MR MITUL K SHELAT for Petitioner No. 1

MR KOGJE, AGP for Respondent No. 1-2

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 28/04/2003

ORAL JUDGEMENT

#. With the consent of the parties, the matter is taken up for final hearing today.

#. The father of the petitioner was serving in the Police Department. While he was in service he died on 1.12.1999. The petitioner, thereafter, applied for getting compassionate appointment. However, the State Government rejected the application by order dated 16.3.2002 on the ground that income of the family of the deceased is more than the stipulated limit of Rs.2500/-. While computing the said income, pensionary benefit which is available to the family of the deceased is also taken into consideration.

#. On behalf of the petitioner, Mr.Shelat submitted that as per the decision of this Court in Special Civil Application No. 11020 of 1993 pensionary benefits are not required to be taken into consideration. He further submitted that, in any case, as per the Government Resolution dated 7.9.2002 income criterion is given go-bye, and, therefore, it is not necessary to consider the income part. He submitted that the income criteria is taken away since 1996 and the father of the petitioner died thereafter.

#. Therefore, naturally while deciding the question of compassionate appointment and considering the income criteria as per the aforesaid order of this court, income of family pension is not required to be taken into consideration.

#. Under these circumstances, the petition is required to be allowed and the matter is required to be sent back to the respondent authority to reconsider the case of the petitioner for appointment on compassionate ground in accordance with law. The respondent authority is directed to dispose of the application of the petitioner for appointment on compassionate ground as early as possible and in any case within a period of three months from the date of the receipt of the writ of this Court. The writ of this order is to be sent forthwith. Rule is made absolute accordingly with no order as to costs.

(P.B.Majmudar,J)
(pathan)